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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/042,681 03/12/98 ISHIDA

A MAT-5870

EXAMINER

IM22/0103

CREPEAU, J

ART UNIT

PAPER NUMBER

1745

DATE MAILED: 01/03/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/042,681

Applicant(s)
Ishida et al

Examiner
Jonathan Crepeau

Group Art Unit
1745



☒ Responsive to communication(s) filed on Oct 22, 1999

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1, 2, 5, 7, 8, 10-13, and 15 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1, 2, 5, 7, 8, 10-13, and 15 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Response to Amendment

1. This Office action addresses claims 1, 2, 5, 7, 8, 10-13, and 15. Claims 5, 10, 11, and 13 are objected to. All the claims are rejected under 35 USC 103, as necessitated by amendment. Therefore, this action is made final.

Claim Objections

2. Claim 11 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The subject matter presented in claim 11 is first presented in claim 1, therefore claim 11 is redundant.
3. Claims 5, 10, and 13 are objected to because of the following informalities: in claims 5 and 10, "a polymer electrolyte" should be "the polymer electrolyte" because the polymer electrolyte was introduced in claim 1; in claim 13, a comma should be included after "substance" in line 9. Appropriate correction is required.

Claim Rejections - 35 USC § 103

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4. Claims 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peled et al (WO 94/24715). Peled et al teach a lithium polymer secondary battery comprising a positive electrode (made of lithium transition metal compound oxide), negative electrode and polymer electrolyte on page 6, first paragraph. A ceramic (alumina) not relating to charge and discharge is contained in the electrolyte, which is contained in the anode (see Example 22). The ceramic is granular with a particle size of 0.05-0.5 microns (see page 4, first full paragraph). The weight percentage of alumina in the alumina/anode active material (coke) mixture is 17.4% (according to the examiner's calculations using densities obtained from the *Prokon* software package of 3.965 and 2.1 g/cc for alumina and coke (amorphous carbon), respectively). [* 1-20% wt]

Peled et al do not teach a weight percentage of ceramic to (ceramic + active material) under 9.09% (according to the maximum percentage of instant claims 1, 12, and 13 obtained by dividing 10 by (100+10)). however with 1. [1-20%]

However, the invention as a whole would have been obvious to one of ordinary skill in the art at the time the invention was made because the weight percentage of alumina still has not been shown to be a critical variable in the practice of the invention. , overlapping ranges

Response to Arguments

Applicant's arguments filed October 22, 1999 have been fully considered but they are not persuasive. In the amendment, Applicants argue that the weight percentage of alumina is critical relative to the prior art. However, the examiner respectfully disagrees. To support this point of

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view, the examiner cites Figure 5 of Applicant's own specification, and also the paragraph at the bottom of page 19. The passage states that at an additive rate of 20 wt% or more, the discharge capacity *decreases* as compared to the battery without additive (thus, the "break-even" point is 20%). This is clearly shown in Figure 5, although according to the examiner's measurements, the break-even point is more accurately located at 24 wt%. Thus, it is seen that the critical range of additive, i.e. where addition of the additive *increases* discharge capacity, lies between >0 wt% and ~ 24 wt%. The prior art value is roughly 17.4 wt%, which clearly falls within the critical range as set forth by Applicants. Thus, it is the examiner's contention that the range as claimed by Applicants ($>0 - 9.09$ wt%) is not critical relative to the prior art value, because the prior art value may be expected to produce similar results.

5. Claims 1, 2, 5, 7, 8, and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peled et al, in view of Kawakami (U.S. Pat. 5,888,666), or Blonsky (U.S. Pat. 5,648,011).

Peled et al is applied for the reasons stated in the rejection above. In addition, the ceramic (alumina, silica or magnesia) is incorporated in the electrolyte and cathode, as taught on page 4, first and second full paragraphs, and page 6, last sentence of first paragraph (the polymer electrolyte may also be incorporated in the composite cathode). The main component of the composite electrolyte is polyethylene oxide (PEO), as taught on page 5. An organic electrolyte solution dissolving lithium salt is taught on pages 4 and 5.

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Peled et al do not explicitly teach that the polymer electrolyte is a gel, or the weight fraction of nonaqueous electrolytic solution.

Kawakami teaches a polymer gel which may comprise PEO in the paragraph starting in column 8, line 43.

Blonsky teaches a gelled electrolyte including a gelling agent made of alumina in the abstract.

Therefore, the invention as a whole would have been obvious to one of ordinary skill in the art at the time the invention was made because either of these references show that the polymer electrolyte of Peled et al could be termed a "gel". Kawakami teaches a number of polymers that are inherently gelled materials, including PEO. Therefore, the artisan may surmise that while Peled et al call their electrolyte a "composite solid electrolyte," the polymer component of the electrolyte is really a gel. Additionally, Blonsky teaches that silica, alumina, and magnesia are all used as gelling agents in an electrolyte. Therefore, the artisan may surmise that because alumina (a gelling agent) is used in the polymer electrolyte of Peled et al, the electrolyte must then be a gel.

Furthermore, the weight fraction of electrolytic solution has not been shown to be a critical variable in the practice of the invention. Thus, the prior art is sufficient to render *prima facie* obvious the claimed range of parts by weight. Applicant must show that the particular range

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is critical, generally by showing that the claimed range achieves unexpected results relative to the prior art range (*In re Woodruff*, 16 USPQ2d 1934).

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Crepeau whose telephone number is (703) 305-0051. The examiner can normally be reached Monday-Friday from 9:30 AM - 6:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Maria Nuzzolillo, can be reached at (703) 305-3776 from Monday-Thursday. The phone number for the organization where this application or proceeding is assigned is (703) 305-5900.

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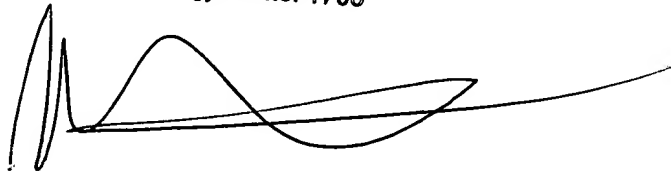
Documents may be faxed to (703) 306-3429. The official fax number for documents of extreme importance is (703) 305-3599 (it will take longer to receive documents faxed to this number; therefore the first number is preferred).

Any inquiry of general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

JSC

December 26, 1999

Maria Nuzzolillo
Supervisory Patent Examiner
Technology Center 1700

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.